

Remarks

Amendments:

Support for the amendments to the claims can be found in the application as originally filed. No new matter is added.

Interview Summary:

In a telephone interview on 16 April, 2009, the compound methyl 3-fluoro-3-[5-(morpholin-4-ylmethyl)pyridin-2-yl]-2-oxoindoline-5-carboxylate hydrochloride was discussed and agreement was reached that said compound would be deleted from claim 60.

Claims:

Claims 53 and 54 have been cancelled herein. Claims 34, 42, 60 and 61 are amended herein. Claims 1-33, 35, 37-41, 43-44, 46 and 55-59 were previously cancelled. Claims 47-52 and 62-68 are withdrawn as indicated by the Examiner of which claims 50, 51, 66 and 67 are currently amended to correct typographical errors. Claims 34, 36, 42, 45 and 60-62 are under examination.

Claim Rejections and Claim Objection:

The Examiner has asserted that first compound in claim 61, 2-hydroxy-3-[5-(morpholin-4-ylsulfonyl)pyridin-2-yl]-1H-indole-5-carbonitrile, is disclosed in US Patent No. 7,399,780. Solely to expedite prosecution of this case and without conceding the correctness of the Examiner's assertion, Applicants have cancelled said compound from claim 61.

To address the Examiner's rejection under 35 U.S.C. 102(e), Applicants have amended claim 34 by defining Y as non-optional and has also deleted the definitions C₁₋₆alkyl and C₀₋₆alkylaryl of Y. As a result of the amendment, compounds of formula Ia such as the compound 2-hydroxy-3-[5-(morpholin-4-ylsulfonyl)pyridin-2-yl]-1H-indole-5-carbonitrile and certain other compounds mentioned in U.S. Patent 7,399,780 are not now encompassed by instant claim 34. Further, Applicants have cancelled claims 53-54 to address the Examiner's objection thereto.

The Examiner has objected to claim 42 for depending on a previously rejected claim.
Applicant has amended claim 42 to depend on claim 34, which claim has been amended.

The compound methyl 3-fluoro-3-[5-(morpholin-4-ylmethyl)pyridin-2-yl]-2-oxoindoline-5-carboxylate hydrochloride has been deleted from claim 60.

Double patenting rejection:

Applicants submit herewith a terminal disclaimer over commonly owned U.S. Patent 7,339,780 to obviate the nonstatutory obviousness-type double patenting rejection.

Reservation of Rights:

In view of the amendments to the claims submitted herein, Applicants respectfully suggest that the claim objections are overcome and request that the Examiner reconsider and withdraw all such objections and rejections.

Conclusion:

Applicants believe the application is in condition for allowance, which action is respectfully requested.

Applicants reserve the right to claim any subject matter not within the scope of the present claims in future continuation applications.

The Commissioner is hereby authorized to charge any fees or credit any overpayment to deposit account No. 260166 referencing Attorney Docket No. 101192-1P US/NS.

Respectfully submitted,

Dated: July 20, 2009

By: / Kenneth F. Mitchell /
Kenneth F. Mitchell, Ph.D., J.D.
Attorney for Applicants
Reg. No. 42,007
Telephone: 302/886-7466